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In re Application of:

ALLIKMETS, Ene, et al. : DECISION ON PETITION
U.S. Application No.: 10/583,014 :
PCT No.: PCT/US2004/041801 :
International Filing Date: 10 December 2004 :
Priority Date: 19 December 2003 :
Atty Docket No.: AM101242 :
For: SERUM-FREE VERO CELL :
BANKING PROCESS :

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally" filed 16 November 2006, treated herein as a petition for withdrawal of the holding of abandonment under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 10 December 2004, applicants filed international application PCT/US2004/041801. The international application claimed a priority date of 19 December 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 June 2006.

On 15 June 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, an executed declaration. The Transmittal Letter filed by applicants authorized a charge to Deposit Account No. 01-1435 for the basic national fee (as well as the search and examination fees).

On 02 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the "full U.S. Basic National Fee by 30 months." Specifically, the Notification indicated that the Deposit Account provided by applicants was not valid.

On 16 November 2006, the petition considered herein was filed. Although the petition is entitled "Petition For Revival Of An Application For Patent Abandoned Unintentionally," it does not include the petition fee and statements required for such a petition under 37 CFR 1.137(b). Accordingly, the petition is treated herein as a petition under 37 CFR 1.181 seeking withdrawal of the holding of abandonment.

DISCUSSION

Pursuant to 35 U.S.C. 371(d)(4) and 37 CFR 1.495(h), the failure to timely pay the basic national fee results in the abandonment of the application with respect to the United States. This is a statutory requirement that cannot be waived by the USPTO.

Here, applicants' only attempt to pay the basic national fee prior to the expiration of the thirty-month deadline was ineffective in that it consisted of an authorization to charge a non-existent Deposit Account for the required fee. The present petition confirms that the Deposit Account provided by applicants was not correct. Regardless of whether the incorrect Deposit Account provided by applicant was the result of a typographical error, the fact is that a valid form of payment of the basic national fee was not filed in the USPTO prior to the expiration of the thirty-month deadline.

The present petition does not provide evidence that an acceptable payment of the basic national fee was submitted before the expiration of the thirty-month deadline. Withdrawal of the holding of abandonment is therefore not appropriate on the present record.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The present application remains abandoned with respect to the United States of America.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include an adequate showing that an acceptable form of payment of the basic national fee was filed in the USPTO prior to the expiration of the thirty-month deadline at midnight on 19 June 2006.

In the alternative, applicants may consider filing a petition for revival of an unintentionally abandoned application under 37 CFR 1.137(b), with all required elements, including the petition fee.

Please direct further correspondence with respect to this petition to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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